

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:07-HC-2148-BO

UNITED STATES OF AMERICA	)	
	)	
Petitioner,	)	
	)	MOTION FOR VOLUNTARY
v.	)	DISMISSAL WITH
	)	LEAVE OF COURT
JERRY T. ROGERS,	)	
	)	
Respondent.	)	

Petitioner, the United States of America, by and through the United States Attorney for the Eastern District of North Carolina, pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, hereby moves the Court to voluntarily dismiss the certification of a sexually dangerous person against Respondent, Jerry T. Rogers.

A settlement agreement, subject to the Court's approval, is attached hereto as Exhibit A, which details the manner in which the parties propose that this matter be concluded. A copy of Respondent's criminal judgment in United States of America v. Jerry Rogers, Case No. CR91-01913 DAE 01 (D. Haw. Aug. 17, 1992), as referenced in the settlement agreement, is attached hereto as Exhibit B. Pursuant to the terms of the settlement agreement, the parties jointly request that the Court conduct a hearing to inquire of counsel for the United States, the

Respondent, and Respondent's counsel whether each of them personally affirms in open court that the terms and conditions of the settlement agreement have been entered and undertaken knowingly and voluntarily after having adequate opportunity to seek counsel.

WHEREFORE, Petitioner requests that the Court allow Petitioner to voluntarily dismiss the certification of a sexually dangerous person against Respondent, Jerry T. Rogers, subject to the above-mentioned terms.

Respectfully submitted this the 4<sup>th</sup> day of October, 2011.

THOMAS G. WALKER  
United States Attorney

By: /s/ Michael Lockridge  
MICHAEL LOCKRIDGE  
Attorney for Petitioner  
Special Assistant U.S. Attorney  
U.S. Attorney's Office  
Civil Division  
310 New Bern Avenue  
Suite 800, Federal Building  
Raleigh, NC 27601-1461  
(919) 575-3900 x 5093  
(919) 856-4309  
Fax: (919) 856-4821  
E-mail: michael.lockridge@usdoj.gov  
N.C. Bar # 28644

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing has been served upon Samuel A. Forehand, counsel for Respondent, by electronically filing the foregoing with the Clerk of Court this date, October 4, 2011, using the CM/ECF system which will send notification of such filing to the above.

/s/ Michael Lockridge  
MICHAEL LOCKRIDGE  
Attorney for Petitioner  
Special Assistant U.S. Attorney  
U.S. Attorney's Office  
Civil Division  
310 New Bern Avenue  
Suite 800, Federal Building  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:07-HC-2148-BO

UNITED STATES OF AMERICA	)	
	)	
Petitioner,	)	
	)	SETTLEMENT AGREEMENT
v.	)	
	)	
JERRY T. ROGERS,	)	
	)	
Respondent.	)	

Petitioner, the United States of America, by and through the United States Attorney for the Eastern District of North Carolina, and Respondent, Jerry T. Rogers, by and through his counsel of record, Samuel A. Forehand, have agreed that this matter should be concluded in accordance with terms and conditions of this agreement as follows:

1. This agreement constitutes the full and complete record of the agreement of this matter. There are no other terms of this agreement in addition to or different from the terms contained herein.

2. Respondent admits and stipulates that the United States lawfully certified and detained Respondent as a sexually dangerous person under the Adam Walsh Act, as codified in 18 U.S.C. § 4248 pursuant to procedures established in 18 U.S.C. § 4248(a) and that said statute was upheld as constitutional in United States v.



Comstock, 130 S.Ct. 1949 (2010), and again on remand to the Fourth Circuit of Appeals, in United States v. Comstock, 627 F.3d 513 (4<sup>th</sup> Cir. 2010), and that based on the above established procedures his release from imprisonment was stayed on August 7, 2007.

3. Respondent admits and stipulates that the criminal judgment against him in the matter of United States of America v. Jerry Rogers, Case No. CR91-01913 DAE 01 (D. Haw. Aug. 17, 1992), for Use and Carry of a Firearm During and Relation to a Crime of Violence, Bank Robbery, in violation of 18 U.S.C. § 924(c) and Bank Robbery, in violation of 18 U.S.C. §§ 2113(a) and (d), imposed upon him a five (5) year term of supervised release, that the judgment ordered that the term of supervised release was to be served "upon release from imprisonment," and that the judgment ordered that he report in person to the probation office in the district of his release within 72 hours of his release from BOP custody.

4. Petitioner agrees and promises that, in consideration of Respondent's admissions and stipulations set out in Paragraphs 2 and 3 above, the United States will file a motion under Rule 41 of the Federal Rules of Civil Procedure asking the Court to dismiss this action and to lift the stay on Respondent's release from imprisonment under Title 18 U.S.C. § 4248.

5. Petitioner and Respondent jointly request that the Court conduct a hearing to inquire of counsel for the United States,

Respondent, and Respondent's counsel whether each of them personally affirms in open court that the terms and conditions of this settlement agreement have been entered and undertaken knowingly and voluntarily after having had adequate opportunity to seek counsel.

Respectfully submitted on this the 4<sup>th</sup> day of October<sup>th</sup>,  
2011.

THOMAS G. WALKER  
UNITED STATES ATTORNEY

BY:

Michael Lockridge  
MICHAEL LOCKRIDGE  
Assistant U.S. Attorney

Jerry T. Rogers  
JERRY T. ROGERS  
Respondent

10-4-11

Samuel A. Forehand 10/04/2011  
SAMUEL A. FOREHAND  
Attorney for Respondent

APPROVED, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
TERRENCE W. BOYLE  
United States District Judge

AUG 25 1992

## UNITED STATES DISTRICT COURT

District of Hawaii

3 o'clock and \_\_\_\_\_ M.  
WALTER A. Y. H. CHINN, CLERK

UNITED STATES OF AMERICA

## JUDGMENT IN A CRIMINAL CASE

V.

For Offenses committed on or after November 1, 1987

Criminal Number: **CR91-01913 DAE 01****JERRY T. ROGERS**

(Defendant's Name)

**Rustam Barbee, AFPD**

Defendant's Attorney

## THE DEFENDANT:

☒ Plead guilty to counts 2 and 3 of the Superseding Indictment.☐ was found guilty on counts \_\_\_\_\_ after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18:924(c)	Use & Carry a Firearm, During & In Relation To A Crime of Violence, Bank Robbery	8/24/91	2
18:2113(a) and (d)	Bank Robbery	8/24/91	3

 ATTEST: A True Copy  
 WALTER A. Y. H. CHINN  
 Clerk, United States District  
 Court, District of Hawaii  
 By *[Signature]* Deputy

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) \_\_\_\_\_ and is discharged as to such count(s).  
☒ Count(s) 1, 4, 5, 6 of the Superseding Indictment are dismissed on the motion of the United States.  
☒ It is ordered that the defendant shall pay a special assessment of \$ 100.00, for count(s) 2 and 3 of the Superseding Indictment, which shall be due ☒ immediately, ☐ as follows:

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: [REDACTED]

Defendant's Date of Birth: [REDACTED]/52

 Defendant's Mailing Address:  
1735 Kuhio Ave. #1101  
Honolulu, Hawaii 96815

 Defendant's Residence Address:  
1735 Kuhio Ave. #1101  
Honolulu, Hawaii 96815

 August 17, 1992  
 Date of Imposition of Sentence

*[Signature]*  
 Signature of Judicial Officer

 DAVID ALAN EZRA, U.S. District Judge  
 Name & Title of Judicial Officer

*[Signature]*  
 Aug. 25, 1992  
 Date
GOVERNMENT  
EXHIBITB

BOP\_ROGE\_001163

Defendant: JERRY T. ROGERS  
Case Number: CR91-01913 DAE 01

Judgment-Page 2 of 5

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **TWO HUNDRED AND SIXTEEN (216) MONTHS**.

This term consists of terms of imprisonment of **SIXTY (60) MONTHS** as to Count 2 and **ONE HUNDRED AND FIFTY SIX (156) MONTHS** as to Count 3 all such terms shall be served consecutively to each other to the extent necessary to produce a total term of **TWO HUNDRED AND SIXTEEN (216) MONTHS**.

☒ The court makes the following recommendations to the Bureau of Prisons:  
USP Lewisburg, Lewisburg, Pennsylvania

- ☒ The defendant is remanded to the custody of the United States Marshal.  
☐ The defendant shall surrender to the United States Marshal for this district,  
    ☐ at \_\_\_ a.m. / p.m. on \_\_\_.  
    ☐ as notified by the United States Marshal.  
☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons,  
    ☐ before 2 p.m. on .  
    ☐ as notified by the United States marshal.  
    ☐ as notified by the probation office.

**RETURN**

I have executed this judgment as follows:

Defendant delivered on 4-24-95 to USP at Lewisburg, PA, with a certified copy of this judgment.

JD. James, Warden  
United States Marshal  
BY Charles

**BOP\_ROGE\_001164**



Defendant: JERRY T. ROGERS  
Case Number: CR91-01913 DAE 01

Judgment-Page 3 of 5

**SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of FIVE (5) YEARS

This term consists of terms of supervised release of FIVE (5) YEARS on Count 3 and a term of THREE (3) YEARS on Count 2, all such terms shall be served concurrently.

While on supervised release, the defendant shall not commit another federal, state, or local crime and shall not illegally possess a controlled substance. The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

[X] The Defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

[ ] The defendant shall pay any fines that remain unpaid at the commencement of the term of supervised release.

[x] The defendant shall not possess a firearm or destructive device.

1. *That the defendant pay restitution of \$1,509.00 to City Bank of Honolulu and \$5,067.00 to First Federal Savings And Loan of Honolulu;*
2. *That the defendant participate in mental health counseling as directed by the probation office.*

**STANDARD CONDITIONS OF SUPERVISION**

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity; and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notifications requirements.

**BOP\_ROGE\_001165**

Defendant: U.S.A. vs. JERRY T. ROGERS  
Case Number: CR91-01913 DAE 01

Judgment-Page 4 of 5

**RESTITUTION AND FORFEITURE****RESTITUTION**

☐ The defendant shall make restitution to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
City Bank of Honolulu	\$1509.00
First Federal Savings & Loan of Honolulu	\$5067.00

Payments of restitution are to be made to:

☐ the United States Attorney for transfer to the payee(s).

☐ the payee(s).

Restitution shall be paid:

☐ in full immediately.

☐ in full not later than \_\_\_\_.

☐ in equal monthly installments over a period of \_\_\_\_ months. The first payment is due on the date of this judgment. Subsequent payments are due monthly thereafter.

☒ in installments according to the following schedule of payments:

That the defendant pay restitution to the as a condition of supervised release.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

**FORFEITURE****BOP\_ROGE\_001166**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:07-HC-2148-BO

UNITED STATES OF AMERICA	)	
	)	
Petitioner,	)	
	)	ORDER
v.	)	
	)	
JERRY T. ROGERS,	)	
	)	
Respondent.	)	

The Court has considered Petitioner's Motion for Voluntary Dismissal and the Settlement Agreement entered into between the parties. The United States, the Respondent, and Respondent's counsel have each personally affirmed in open court that the terms and conditions of the settlement agreement have been entered and undertaken knowingly and voluntarily after having adequate opportunity to seek counsel. The Court finds as a fact that the parties knowingly and voluntarily entered into the Settlement Agreement.

IT IS HEREBY ORDERED that pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure and for good cause, this action is DISMISSED.

IT IS FURTHER ORDERED that the stay of Respondent's release from Bureau of Prisons custody is lifted, and Respondent is ordered to be released from Bureau of Prisons custody. The

Respondent shall comply with the terms of supervised release as ordered by the court in the matter of United States America v. Jerry T. Rogers, Case No. CR91-01913 DAE 01 (D. Haw. Aug. 17, 1992). In accordance with said order, Respondent shall report to the probation office in the district of his release within 72 hours of his release.

This the \_\_\_\_ day of October, 2011.

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TERRENCE W. BOYLE  
United States District Judge